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12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

14 UNITED STATES OF AMERICA, and ) CASE NO. C 09-0186 CW  
15 THE PEOPLE OF THE STATE OF )  
16 CALIFORNIA *ex rel.* CALIFORNIA )  
STATE WATER RESOURCES )  
17 CONTROL BOARD, and CALIFORNIA )  
REGIONAL WATER QUALITY )  
CONTROL BOARD, SAN FRANCISCO )  
18 BAY REGION, )  
19 Plaintiffs, ) STIPULATION AND ORDER  
v. ) HOLDING IN ABEYANCE ALL  
20 ) LITIGATION DEADLINES AND  
EAST BAY MUNICIPAL UTILITY ) VACATING SEPTEMBER 15, 2009  
21 DISTRICT ) CASE MANAGEMENT  
22 Defendant. ) CONFERENCE  
23

24 On July 22, 2009, the Court entered the Stipulated Order for Preliminary Relief in this  
25 case. The Stipulated Order provides for a number of measures that East Bay Municipal Utility  
26 District (EBMUD) must take to begin to curtail discharges from its wet weather facilities. These

27 Stipulation & Order Holding in Abeyance  
28 All Litigation Deadlines and Vacating September 15, 2009  
Case Management Conference C 09-0186 CW

1 include data gathering, analysis and other work. The Stipulated Order is not, however, a final  
2 remedy in that the measures specified will not alone prevent future discharges. Rather, as  
3 explained in detail in the Motion to Enter, the government plaintiffs will review the work done  
4 under this Order and will either submit a further settlement document to the Court or utilize other  
5 enforcement options. Since the flows at issue in this matter originate in the collection systems of  
6 satellite communities, those entities will need to be involved in the ultimate remedy, even though  
7 they are not presently before the Court.

8       The activities, discussed in great detail in the Motion to Enter, will take approximately  
9 three years to complete, although there are interim deliverables that begin to become due within  
10 the first year and there is an annual report due August 31 of each year. As long as EBMUD is  
11 diligent in its efforts under the Order, there is no reason to proceed with the litigation while these  
12 efforts are being undertaken. The plaintiffs are hopeful that a future settlement of the entire case  
13 will be ultimately be achieved without the need for discovery, motion practice or trial. Because  
14 of this unusual posture, we seek the Court's approval of this stipulation to hold in abeyance all  
15 litigation deadlines in the case and to vacate the currently scheduled case management  
16 conference set for September 15, 2009. We propose to file with the Court semi-annual status  
17 reports on the progress under the Order, with the first report due January 15, 2010. When the  
18 activities under this Order are drawing to a close, the parties will schedule a case management  
19 conference with the Court to decide how to proceed with the litigation.

20           NOW THEREFORE, IT IS HEREBY STIPULATED by the United States; the  
21 State of California; the Intervenor Plaintiffs, San Francisco Baykeeper and Our Children's Earth  
22 Foundation; and the defendant East Bay Municipal Utility District, that:

- 23 (1) all litigation deadlines in this case are held in abeyance pending further order of the  
24 Court;  
25 (2) the case management conference set for September 15, 2009 is vacated;

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27           Stipulation & Order Holding in Abeyance  
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- 1 (3) the parties will submit joint status reports to the Court semi-annually beginning on  
2 January 15, 2010; and  
3 (4) the parties will alert the Court when the activities under the Stipulated Order are  
4 complete and shall seek a case management conference at that time.

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Respectfully submitted,

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JOHN C. CRUDEN  
Acting Assistant Attorney General  
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U.S. Department of Justice

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DATED: 8/5/09

/s/ Lori Jonas

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Attorney General of the State of California

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DATED: 8/5/09

/s/ John Davidson

JOHN DAVIDSON  
Supervising Deputy Attorney General

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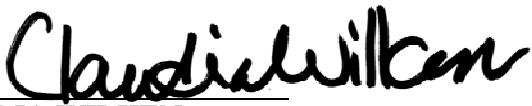
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16 Attorneys for East Bay Municipal Utility  
17 District

18  
19 ORDER

20 The Stipulation agreed to herein IS SO ORDERED.

21  
22 DATED: 8/17, 2009

23   
24 CLAUDIA WILKEN  
25 United States District Judge

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27 Stipulation & Order Holding in Abeyance  
28 All Litigation Deadlines and Vacating September 15, 2009  
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